

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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CEMENT AND CONCRETE WORKERS
DISTRICT COUNCIL WELFARE FUND,
PENSION FUND, ANNUITY FUND,
EDUCATION AND TRAINING FUND,
AND ALL OTHER FUNDS, et al.,

ORDER
08-CV-1672 (RRM) (CLP)

Plaintiffs,

- against -

ANGEL CONSTRUCTION GROUP, LLC,
et al.,

Defendants.

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MAUSKOPF, United States District Judge.

Plaintiffs Silvana Baldo, Alexander J. Castaldi, and the Cement and Concrete Workers District Council Welfare Fund, Pension Fund, Annuity Fund, Education and Training Fund and Other Funds (collectively, the “Funds”) commenced this action against Defendants Angel Construction Group, LLC and Thomas Atamanoff pursuant to Sections 502(a)(3) and 515 of the Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C. §§ 1332(a)(3), 1145 and Section 301 of the Labor Management Relations Act of 1947, as amended, 29 U.S.C. § 185, seeking unpaid contributions and dues owed to the Funds and to the Cement and Concrete Workers District Council, along with injunctive and other equitable relief.

On November 12, 2009, Plaintiffs filed an unopposed motion for summary judgment. By Order entered November 24, 2009, this Court referred that motion to the assigned Magistrate Judge, the Honorable Cheryl L. Pollak, for a Report and Recommendation. On June 15, 2010, Judge Pollak issued a Report and Recommendation (the “R&R”) recommending that Plaintiffs’ motion be granted to the extent that it sought recovery for monies owed to the Funds for the period October 1, 2006 to June 30, 2007, and that Plaintiffs be awarded the following damages: (1) \$21,542.89 in

delinquent contributions to the Funds; (2) \$15,865.84 in interest on the delinquent contributions; and (3) \$4,308.56 in liquidated damages, for a total award of \$41,717.29, plus the additional interest that has accrued from June 15, 2010 until the entry of judgment, together with post-judgment interest pursuant to 28 U.S.C. § 1961. Judge Pollak further recommended, however, that Plaintiffs' request for damages for the period January 1, 2009 to April 30, 2009 be rejected because Plaintiffs failed to assert a claim for this time period in the Complaint, or to seek an amendment. Finally, Judge Pollak reminded the parties that, pursuant to Rule 72(b), objections to the R&R were due July 2, 2010. No party has filed any objection.

Pursuant to 28 U.S.C. § 636(b) and Federal Rule of Civil Procedure 72, the Court has reviewed the R&R for clear error and, finding none, concurs with the R&R in its entirety. *See Covey v. Simonton*, 481 F. Supp. 2d 224, 226 (E.D.N.Y. 2007). Accordingly, it is hereby ORDERED that Plaintiffs' motion for summary judgment as to claims related to the period October 1, 2006 to June 30, 2007 – the only claims before this Court -- is GRANTED. The Clerk of Court is directed to enter Judgment in favor of Plaintiffs and against both Defendants as follows: (1) \$21,542.89 in delinquent contributions to the Funds; (2) \$15,865.84 in interest on the delinquent contributions; and (3) \$4,308.56 in liquidated damages, for a total award of \$41,717.29, plus the additional interest that has accrued from June 15, 2010 until the entry of judgment and post-judgment interest pursuant to 28 U.S.C. § 1961. Further, upon entry of Judgment, the Clerk of Court is directed to close this case.

SO ORDERED.

Dated: Brooklyn, New York
August 27 , 2010

s/RRM

ROSLYNN R. MAUSKOPF
United States District Judge